

**§ 1045.44**

or subject areas should be addressed to the Director of Declassification, Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290.

**§ 1045.44 Classification review prior to public release.**

Any person with authorized access to RD or FRD who generates a document intended for public release in an RD or FRD subject area shall ensure that it is reviewed for classification by the appropriate DOE organization (for RD) or the appropriate DOE or DoD organization (for FRD) prior to its release.

**§ 1045.45 Review of unmarked documents with potential restricted data or formerly restricted data.**

(a) Individuals reviewing NSI records of permanent historical value under the automatic or systematic review provisions of E.O. 12958 may come upon documents that they suspect may contain RD or FRD, but which are not so marked. Such documents are not subject to automatic declassification.

(b) Such documents shall be reviewed by an RD Classifier as soon as possible to determine their classification status. Assistance may be requested from the DOE Director of Declassification.

**§ 1045.46 Classification by association or compilation.**

(a) If two pieces of unclassified information reveal classified information when associated, then RD classifiers may classify the document.

(b) RD classifiers may classify a document because a number of pieces of unclassified information considered together contain some added value such as completeness or comprehensiveness of the information which warrants classification.

**Subpart D—Executive Order 12958: “Classified National Security Information” Requirements Affecting the Public**

**§ 1045.50 Purpose and scope.**

This subpart describes the procedures to be used by the public in questioning or appealing DOE decisions regarding the classification of NSI under E.O. 12958 and 32 CFR part 2001.

**§ 1045.51 Applicability.**

This subpart applies to any person with authorized access to DOE NSI or who desires access to DOE documents containing NSI.

**§ 1045.52 Mandatory declassification review requests.**

All DOE information classified as NSI is subject to review for declassification by the DOE if:

(a) The request for a review describes the document containing the information with sufficient specificity to enable the agency to locate it with a reasonable amount of effort;

(b) The information is not exempted from search and review under the Central Intelligence Agency Information Act;

(c) The information has not been reviewed for declassification within the past 2 years; and

(d) The request is sent to the Department of Energy, Director of Declassification, 19901 Germantown Road, Germantown, Maryland 20874–1290.

**§ 1045.53 Appeal of denial of mandatory declassification review requests.**

(a) If the Department has reviewed the information within the past 2 years, the request may not be processed. If the information is the subject of pending litigation, the processing of the request may be delayed pending completion of the litigation. The Department shall inform the requester of this fact and of the requester’s appeal rights.

(b) When the Director of Declassification has denied a request for review of NSI, the requester may, within 30 calendar days of its receipt, appeal the determination to the Director of Security Affairs.

(c) *Elements of appeal.* The appeal shall be in writing and addressed to the Director of Security Affairs, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. The appeal shall contain a concise statement of grounds upon which it is brought and a description of the relief sought. It should also include a discussion of all relevant authorities which include, but are not limited to DOE